

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRIAN KEMP, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**CURLING PLAINTIFFS' MOTION FOR EXCESS PAGES
FOR POST-HEARING STATEMENT AND
RESPONSE TO DECLARATION OF REBECCA SULLIVAN**

Plaintiffs Donna Curling, Donna Price, and Jeffrey Schoenberg (the "Curling Plaintiffs") respectfully request excess pages for their Post-Hearing Statement And Response To Declaration of Rebecca Sullivan in further support of their Motion for Preliminary Injunction (Dkt. No. 260). In support of their Motion, the Curling Plaintiffs submit as follows:

1. As this Court emphasized at yesterday's hearing, the issues before the Court on the Curling Plaintiffs' Motion for Preliminary Injunction are of grave importance, involving the security and reliability of elections throughout the state of Georgia this fall and the confidence voters can and do have in that those elections. The Curling Plaintiffs believe that a robust yet concise post-hearing statement that summarizes the key points from yesterday's

hearing—together with responding to Ms. Sullivan’s declaration—will aid the Court in considering and deciding these important issues in light of the record that was significantly further developed at the hearing and in Ms. Sullivan’s declaration.

2. Many new facts came to light in yesterday’s hearing, including from witnesses called by Defendants from whom the Court—and Plaintiffs—had never previously heard in this litigation. Given the length of the hearing and the amount of information provided to the Court, especially the new information provided by Defendants through new witnesses, the Curling Plaintiffs believe that the Court will benefit from a post-hearing statement that highlights the most significant new facts and concisely explains their importance to the issues before the Court.
3. The Court originally had intended for the parties to provide closing arguments, in which the Curling Plaintiffs would have provided the sort of summary of the evidence and law that they seek to provide now. This seems to suggest that the Court found such a presentation likely valuable. Due to the length of the hearing and the late hour, no time remained for closings yesterday evening. The Curling Plaintiffs respectfully submit that a robust yet concise post-hearing statement, which also responds to the new

testimony from Ms. Sullivan, would help mitigate the prejudice to them from Defendants' decision to wait until the hearing—rather than with their briefs or otherwise in advance of the hearing—to submit significant new testimony and other evidence to this Court from entirely new witnesses, which the Curling Plaintiffs would have addressed in closing arguments had time permitted.

4. The Court indicated at the hearing that it is working to issue a decision on the Curling Plaintiffs' Motion for Preliminary Injunction as early as tomorrow. The Curling Plaintiffs believe a robust but concise post-hearing statement that highlights the key developments in yesterday's hearing—both new facts and those now unrefuted—will aid the Court's efforts to issue a decision quickly, especially given the length of the hearing and volume of testimony and other evidence presented.
5. There is no undue prejudice to Defendants given the Curling Plaintiffs bear the burden to establish the elements the Court must consider to grant their Motion for Preliminary Injunction, and it is customary for the party with the burden to have an opportunity to respond to new evidence from the other side and to be the last to present arguments about the evidence and law—

which presumably would have occurred with rebuttal closing arguments had time permitted closings yesterday evening.

6. Although the Court set a one-page limit for post-hearing statements, at the request of Fulton County, (Doc. No. 298), the Court did not set a limit on the length of responses to Ms. Sullivan's declaration. For the ease of the Court, the Curling Plaintiffs seek to file a single submission that efficiently combines these two submissions and responds to Ms. Sullivan's declaration within the broader context of the issues before the Court. Given the one-page limit on post-hearing statements, the Curling Plaintiffs seek excess pages for their combined submission, notwithstanding the lack of a Court-ordered limit on responses to Ms. Sullivan's declaration.

7. The Curling Plaintiffs seek a total of 17 pages for their Post-Hearing Statement And Response To Declaration Of Rebecca Sullivan.

8. A Proposed Order is attached to this Motion for the Court's convenience.

For the foregoing reasons, the Curling Plaintiffs respectfully request that the Court grant their Motion and permit the Curling Plaintiffs to file a 17-page Post-Hearing Statement And Response To Declaration Of Rebecca Sullivan.

Dated: September 13, 2018

Respectfully submitted,

/s/ David D. Cross
David D. Cross (*pro hac vice*)

John P. Carlin (*pro hac vice*)
Jane P. Bentrutt (*pro hac vice*)
Catherine L. Chapple (*pro hac vice*)
Robert W. Manoso (*pro hac vice*)
MORRISON & FOERSTER LLP
2000 Pennsylvania Avenue, NW
Suite 6000
Washington, DC 20006
Telephone: (202) 887-1500
DCross@mofo.com
JCarlin@mofo.com
RManoso@mofo.com
CChapple@mofo.com
JBentrutt@mofo.com

Halsey G. Knapp, Jr.
GA Bar No. 425320
Adam M. Sparks
GA Bar No. 341578
KREVOLIN & HORST, LLC
1201 West Peachtree Street, NW
Suite 3250
Atlanta, GA 30309
HKnapp@khlawfirm.com
Sparks@khlawfirm.com

*Counsel for Plaintiffs Donna Curling,
Donna Price & Jeffrey Schoenberg*

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ David D. Cross

David D. Cross

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2018, a copy of the foregoing CURLING PLAINTIFFS' MOTION FOR EXCESS PAGES FOR POST-HEARING STATEMENT AND RESPONSE TO DECLARATION OF REBECCA SULLIVAN was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ David D. Cross
David D. Cross